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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,720	03/23/2004	Diane Ransom	04-007-DR	2656

7590 11/29/2005
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EXAMINER

SANDY, ROBERT JOHN

ART UNIT PAPER NUMBER

3677

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,720

Applicant(s)

RANSOM, DIANE

Examiner

Robert J. Sandy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a final Office action in response to the reply received on 19 September 2005.

Claim 22 has been amended.

Claims 20 and 21 have been canceled.

Claims 1-19 and 22 are pending.

Drawings

The drawings filed on 19 September 2005 have not been approved for entry due to New matter presented in the proposed Figs. 4 and 5. The structure represented in Figs. 4 and 5 has not been supported in the originally filed disclosure.

Specification

The amendment filed on 15 September 2005 (cert. of mail date) is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Figures 4 and 5, and the amendments to the Specification filed therewith (see page 2 of applicant's filed amendment) referencing Figs. 4 and 5.

Applicant is required to cancel the new matter in the reply to this Office action.

Response to Arguments

In view of applicant's amendment to claim 18, the claim objection indicated in the prior Office action has been withdrawn.

In view of applicant's remarks regarding drawing features pertaining the plate comprising a button, and the substantially hollow area of the top of the post portion, these specific drawing objections indicated in the prior Office action have been withdrawn.

In view of applicant's submission of new drawing Figs. 6 and 7 including drawing features pertaining to "a piece of apparel" (claim 20), "inserting said post through a pre-existing opening in the fabric" (claim 21), and "a plurality of fibers" (claim 22), these specific drawing objections indicated in the prior Office action have been withdrawn.

Applicant's arguments regarding that "simple release mechanisms and clasps, as described in the application specification and drawings, are well known in the art. Therefore, . . . there is no need to go into excruciating detail with respect to a simple release or clasp that is commonplace in the arts concerned with jewelry, bracelets, and wristwatches" is not found persuasive for the following reasons:

1) Applicant has not demonstrated that the details shown in new Figs 4 and 5 were exclusively well known in the button (i.e., garment fastener) art. Applicant has not provided an factual evidence to support the details shown in new Figs 4 and 5 were exclusively well known in the button (i.e., garment fastener) art.

2) It is to note, that Applicant's originally filed disclosure did not contain sufficient information regarding the subject matter of the claims as to enable one skilled in the pertinent art to make and use the claimed invention. Applicant's originally filed disclosure did not describe the claimed invention device as being associated with to jewelry, bracelets, and wristwatches. The claimed invention is supported in the written specification as a button style device "to provide a device that can perform the securing functions of a button, and provide a pleasing and desirable aesthetic addition to a garment" (page 3, third paragraph).

3) Applicant has not submitted factual affidavits under 37 CFR 1.132 or cited references to show what one skilled in the art knew the details provided in Figures 4 and 5 at the time of filing the application.

In response to applicant's argument that the Carter (U.S. Patent No. 227,730) reference fail to show certain features directed to plate 3, post 4, and base 6 of applicant's invention, it is noted that the claims do not require any further structural limitations of the plate, post, and base, to further differentiate the claimed device from the cited prior art. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's argument regarding claim 22, that the examiner mischaracterizes the term "plurality of fibers", and that "Libby does not teach inserting a device through fibers", these arguments are not found persuasive. It is to note that currently amended

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claim 22 does not explicitly require the device being inserted through a plurality of fibers. Claim 22 sets forth the step of "inserting said post through a piece of apparel, wherein said apparel comprises a plurality of fibers." This step is met by Libby ('707) since the step of *inserting said post through a piece of apparel* is demonstrated by "pin element 12 is passed through the other button hole" (col. 2, lines 52-53), and that it is well known that apparel in the category of shirts are made of cloth fabric which inherently is made up of a plurality of fiber yarns and/or threads. Furthermore, sewn button holes are inherently made up of a plurality of fibers since a buttonhole is defined by the sewn fabric edges.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Carter (U. S. Patent No. 227,730). Carter discloses an apparel insertion device comprising: a plate (shoe *F*); a post (combination of structure having cap *E* and spring-latch *B*), having an outer post surface and an inner post surface, wherein said post is attached to said plate (via catches *e e* engaging with lips *l l* of stem *k* of shoe *F*); and a base (disk *A*) having a base top and a base bottom, wherein said base is capable of receiving said post (Fig. 1 demonstrates the post *E, F* received by the base *A*);

(concerning claim 2) the post further comprises a plate attachment means (catches *e e*);

(concerning claim 3) the post further comprises a plate release means (push-bars *f f*);

(concerning claim 4) the plate attachment means further comprises at least one prong member (one of the catches *e e*);

(concerning claim 5) the plate attachment means further comprises a first prong member and a second prong member (first and second prong member disclose as catches *e e*);

(concerning claim 6) the outer post surface further comprises at least one grooved area (slit *i*) aligned in a substantially horizontal fashion on the outer post surface; and

(concerning claim 7) the base further comprises a means for attaching the post (the base attaching means is met by “drawing rim *b* over the cap *g*”, as shown in Fig 1).

Claim Rejections - 35 USC § 102/103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 22 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Libby ('707). Lilly ('707) shows and discusses a method for using an apparel insertion device (10) comprising the steps of: attaching a plate (11) to a post (12) via “spiral base 22 is readily mounted and locked in the recess 18” (col. 2, lines 10-11); inserting said post through a piece of apparel (“pin element 12 is passed through the other button hole”, col. 2, lines 52-53); and engaging said post into a base (head 13 having lock socket device 14). Libby ('707) discloses the claimed method except for explicitly discuss wherein the cuff material is made of a plurality of fibers, such that the post is inserted through the plurality of fibers that make the piece of apparel.

It is well known that apparel in the category of shirts are made of cloth fabric which inherently is made up of a plurality of fiber yarns and/or threads. It would have been inherent that the button hole(s) of the cuff material of Libby ('707) would have comprised fibers since the button holes are provided in the cuff material. Therefore, Libby ('707) meets the step of inserting said post through a piece of apparel further comprises inserting said post through a plurality of fibers (i.e., the fabric making up the button hole of the cuff material is inherently made up of fibers) that make up said piece of apparel.

Conclusion

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An indication of allowability to all of the pending claims has not been provided in this communication due to the rejection(s) under 35 U.S.C. 112, first paragraph, and objections to the specification and drawing cited herein.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ROBERT J. SANDY
PRIMARY EXAMINER



*Do not Enter -
New Matter - S/P
Not Approved*

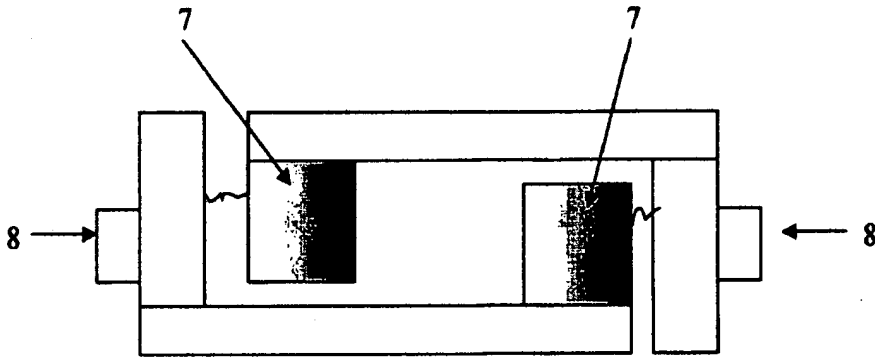


FIG. 4

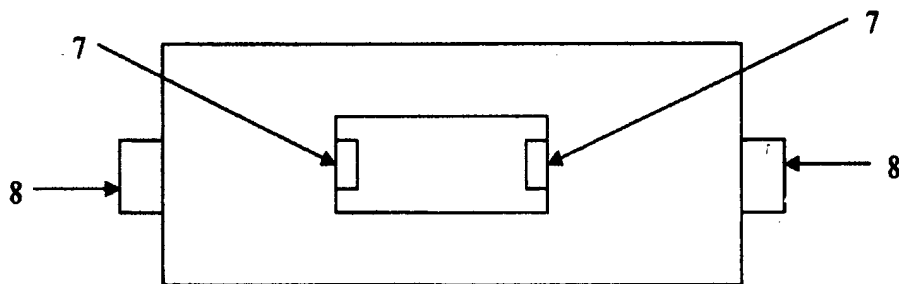


FIG. 5

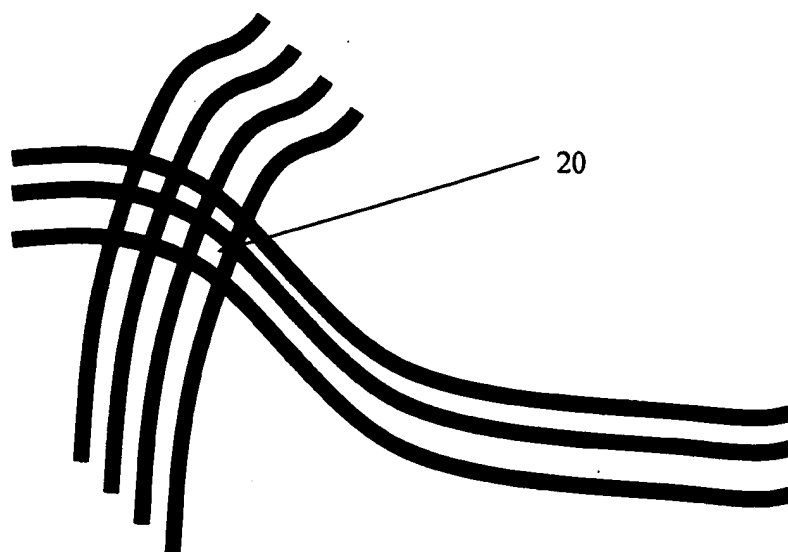


FIG. 6

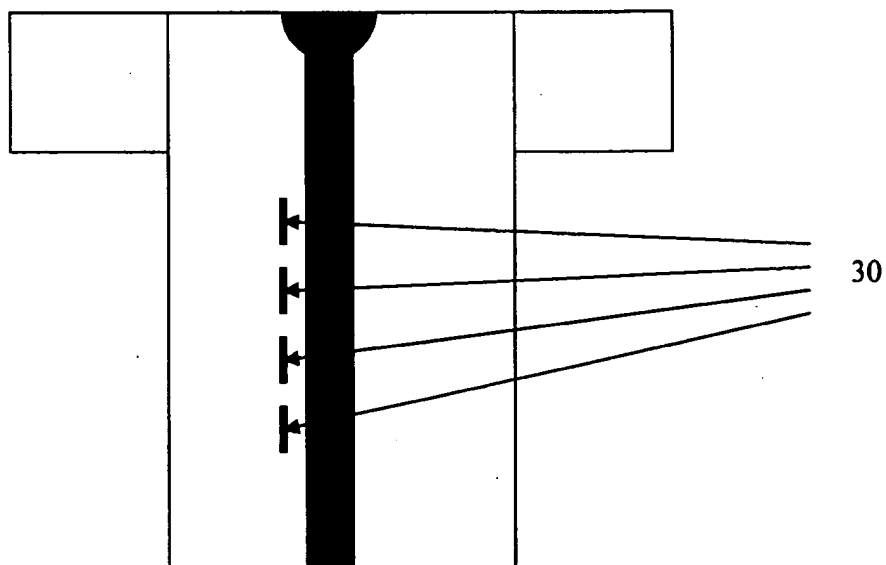


FIG. 7